

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13601, of Harvey S. and Ann K. Arden, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the rear yard requirements (Sub-section 3304.1) and the open court width requirements (Sub-section 3306.1) for a proposed rear deck addition to an existing semi-detached dwelling in an R-2 District at the premises 4101 Legation Street, N.W., (Square 1743, Lot 51).

HEARING DATE: November 10, 1981
DECISION DATE: December 2, 1981

FINDINGS OF FACT:

1. The subject property is located on the northwest corner of the intersection of Legation and 41st Streets, N.W. It is in an R-2 District at premises known as 4101 Legation Street, N.W.

2. The site is rectangular in shape with forty feet of frontage along Legation Street and 82.55 feet of frontage along 41st Street. It contains 3,300 square feet of area. There is a fifteen foot alley adjacent to the lot on the north.

3. The subject property is improved with a brick two-and-a-half story semi-detached dwelling with a walk-out basement and garage at the rear. A wooden fence surrounds the subject property. The lot is affected by no unusual topographic condition.

4. The applicants propose to construct a rear wooden deck extending ten feet four-and-a-half inches from the house by fourteen feet eleven inches wide. The proposed deck would be attached to the first floor level at the existing rear door and steps. The area below the deck would be used for storage and as a work area.

5. Mrs. Arden is a sculptress and works at home. The purpose of the proposed deck would be to provide additional space for family activities, which presently take place on the interior. Half of the basement is used for Mrs. Arden's sculpture work and the other half is used by her husband. She is proposing to perform her sculpturing below the proposed deck and her work would also be screened by the existing fence. Much of her work such as plaster casting and wood carving are performed in the yard. She also

testified that her childrens' toys and bicycles were in the yard because there is no available space in their home.

6. Mrs. Arden testified that at a meeting called by the Advisory Neighborhood Commissioner of Single Member District 3E04 to discuss the proposed deck, she stated that she would be willing to reduce the size of the deck to an eight foot depth. Such a deck would still require a variance.

7. Mrs. Arden also testified that there were no other rear yard decks in the immediate block except that at the rear of 4111 Legation Street there is a deck smaller than the subject proposed deck.

8. There was no evidence or testimony presented that the lot is effected by an extraordinary or exceptional situation or condition. The applicants further gave no indication of what practical difficulty they would suffer if the regulations were strictly applied.

9. The present lot and structure conforms to all the area and bulk requirements of the R-2 District. The R-2 District requires a minimum lot area of 3,000 square feet. The subject lot contains 3,300 square feet. The R-2 District requires a minimum lot width of a thirty feet. Forty feet is provided. A forty percent or 1,320 square foot lot occupancy is allowed while 800 square feet or twenty-four percent is provided.

10. A rear yard of twenty feet is required. The existing dwelling has a rear yard of over twenty-one feet. With the proposed deck, only 11.26 feet will remain, requiring a variance of 8.74 feet or forty-four percent.

11. The proposed deck will be set in from the west side lot line a distance of one foot, nine inches. That area is considered a court under the Zoning Regulations. A court, if provided, must have a width of six feet. The court width of 1.75 feet as proposed requires a variance of 4.25 feet or seventy-one percent.

12. Advisory Neighborhood Commission 3E did not provide a report on this case.

13. Advisory Neighborhood Commission Single Member District 3E04 representative, by letter dated November 5, 1981, stated that a community meeting was held to discuss the proposed deck and cited issues such as a long time cluttering and messiness of the property in question, the bulk of the proposed deck detracting from the neighborhood, appropriate screening of the deck and yard and the precedent-setting nature of the request if approved. Other letters of

record point out similar neighborhood concerns and opposition.

14. No one appeared at the public hearing in opposition or in favor of the granting of this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires the showing of a practical difficulty inherent in the property itself. The present structure conforms with all the requirements of the R-2 District. The Board therefore concludes that there is no practical difficulty inherent in the property itself. The subject lot is regular in shape with no unusual topographic condition.

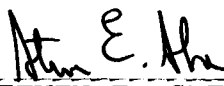
The applicants' proposed rear deck would require a substantial variance to the rear yard of forty-four percent and a variance to the open court requirements of seventy-one percent.

The Board further concludes that because of the extent of the variances and the extent to which the applicant wishes to engage in her work at home and the unkept manner and appearance of the subject property, the relief requested cannot be granted without substantial detriment to the public good, and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is hereby DENIED.

VOTE: 3-0 (Walter B. Lewis, Charles R. Norris and Connie Fortune to DENY; William F. McIntosh and Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

MAY - 6 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."